IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 18404 of 2007(N)

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PETITIONER:

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A.R.ANIL KUMAR, ANTHIKKAD HOUSE,
FACT QUARTERS, E.E.FLAT NO.44, ELOOR.

BY ADV. SRI.P.F.FRANCIS

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO STATE, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SUB INSPECTOR OF POLICE,
KOCHI CITY, TRAFFIC(WEST)POLICE STATION,
KOCHI CITY, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.M.S.BREEZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**R.BASANT, J.**

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W.P.C.No.18404 of 2007

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Dated this the 18th day of June 2007

**J U D G M E N T**

There was a traffic accident involving two vehicles. The petitioner is the owner of one of the vehicles. A crime has been registered by the police against the petitioner at the instance of the driver of the other vehicle. Investigation of that case is in progress.

2. In the meanwhile, the petitioner filed a complaint before the learned Magistrate. The same was referred under Section 156(3) Cr.P.C. Investigation into that crime is also pending. The petitioner's vehicle has been seized and the same is available in the custody of the police. The learned Public Prosecutor submits that the said vehicle had been produced before the learned Magistrate and is at present in the custody of the police on the basis of a direction issued by the learned Magistrate.

3. The petitioner wants return of the custody of his vehicle. He has not approached the learned Magistrate so far

nor has he approached the police with the original documents to show his ownership of the vehicle. It is, in these circumstances, that the petitioner has come before this court.

4. The learned counsel for the petitioner offers to approach the learned Magistrate with a proper application under Section 457 or Section 451 Cr.P.C as the case may be. I need only observe that the learned Magistrate must expeditiously dispose of such application on merits and in accordance with law. The learned Public Prosecutor submits that the police have no objection in releasing the vehicle to the petitioner on condition that he proves that he is the owner of the vehicle entitled to possession thereof.

5. In these circumstances, this petition is dismissed with the observation that the petitioner may approach the learned Magistrate under Section 457 or Section 451 Cr.P.C for release of the vehicle. The learned Magistrate must pass orders expeditiously.

Hand over copy of this order to both the learned counsel for the petitioner and the learned Public Prosecutor.

**(R.BASANT, JUDGE)**

jsr

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007